

UNITED STATES DISTRICT COURT

for the

District of New Jersey

United States of America

v.

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Case No.

DONALD KIVEL

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Mag. No. 12-1064 (AMD)

Defendant(s)

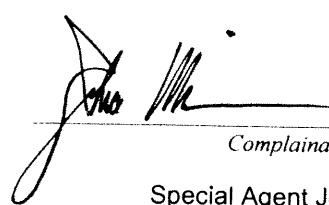
CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 1, 2011 in the county of Burlington in the
District of New Jersey, the defendant(s) violated:*Code Section**Offense Description*Title 18, U.S.C., Section
2252A(a)(2)(A)Distribution of 3 or more images of child pornography, as more fully
described in Attachment A.

This criminal complaint is based on these facts:

See Attached Affidavit of Probable Cause, Attachment B

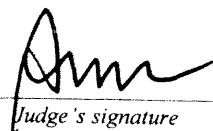
 Continued on the attached sheet.


Complainant's signature

Special Agent Joshua Wilson, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 12/06/2012


Judge's signature

City and state: Camden, New Jersey

Honorable Ann Marie Donio, U.S.M.J.

Printed name and title

CONTENTS APPROVED

UNITED STATES ATTORNEY

By: 
PATRICK C. ASKIN, AUSA

Date: December 6, 2012

ATTACHMENT A

On or about June 1, 2011, in Burlington County, in the District of New Jersey and elsewhere, defendant

DONALD KIVEL

did knowingly distribute at least three images of child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), which images were shipped and transported, using any means and facility of interstate and foreign commerce, and shipped and transported in and affecting interstate and foreign commerce by any means, including by computer.

In violation of Title 18, United States Code, Section 2252A(a)(2)(A)

AFFIDAVIT

I, Joshua J. Wilson, a Special Agent ("SA") with the Federal Bureau of Investigation ("FBI"), Newark Division, having conducted an investigation and having discussed this matter with other law enforcement officers who have participated in this investigation, have knowledge of the following facts:

1. On or about June 1, 2011, a Detective (herein after UC1) with the Delaware County, Pennsylvania, Internet Crimes Against Children (ICAC) Task Force conducted an online undercover investigation to identify individuals possessing and distributing child pornography utilizing publicly available peer to peer file sharing networks (P2P). At approximately 1132 ET, UC1 observed a computer on the P2P network, utilizing Internet Protocol (IP) address 69.142.57.177, sharing files with titles indicative of child pornography. The UC1 was able to establish a direct connection to this subject computer and initiate a file download. UC1 was able to download approximately 5 files from IP address 69.142.57.177.
2. Three of these downloaded files and their corresponding file titles are listed below:

- a. File Title: pictures from ranchi torpedo dloaded in 2009- pedo kdv kidzilla pthc toddlers 0yo 1yo 2yo 3yo 4yo 5yo 6yo 9yo ta (4).jpg

Description: This image appears to depict a minor female clothed only in pink underwear and a light blue sports bra. The female appears to have little to no breast development. The bra has an animated butterfly displayed at its center. The pink underwear has the animated Disney character Tinkerbell imprinted on it. The girl appears seated on a wooden chair or bench. The girl's right hand is reaching out and grasping the penis of an adult male. The male appears to have brown pubic hair. The image is taken from the perspective of the male standing over and looking down upon the girl.

- b. File Title: pictures from ranchi torpedo dloaded in 2009- pedo kdv kidzilla pthc toddlers 0yo 1yo 2yo 3yo 4yo 5yo 6yo 9yo tara babyj (140).jpg

Description: This image appears to depict a close up image of the groin area of a prepubescent Caucasian female. The girl is lying on a bed or other piece of furniture, which appears to be covered in red satin. The female is wearing black underwear which she appears to be holding to the side with her left hand causing her vagina to be exposed to the viewer. There is a white colored cylindrical object inserted in her vagina, which is possibly a vibrator.

- c. File Title: pictures from ranchi torpedo dloaded in 2009- pedo kdv kidzilla pthc toddlers 0yo 1yo 2yo 3yo 4yo 5yo 6yo 9yo tara babyj (58).jpg

Description: This image appears to depict a naked prepubescent Caucasian female. The girl is lying on her back on a bed with a brown bedspread and a

tiger print blanket in the background. The girl's knees are bent and her legs spread exposing her genitalia to the viewer. Her hands appear to be resting on her knees and holding her legs open. The girl has light or sandy colored hair and is looking at the camera. The image is taken from the perspective of someone at the foot of the bed.

3. A check of publicly available records located online by an organization known as the American Registry of Internet Numbers (ARIN), determined that the aforementioned IP address is owned by Comcast Cable Communications. A court order was completed on 06/09/11 in order to identify the subscriber of that IP address at the above-mentioned date and time.
4. On 06/28/11, a response was received from Comcast Legal Response indicating that a subscriber located in Palmyra, New Jersey was utilizing IP address 69.142.57.177, on 06/01/2011 at 1132 ET. The subscriber for the Comcast account was a female named K.C.
5. This matter was subsequently referred by the Delaware County ICAC to the New Jersey ICAC and the Burlington County Prosecutor's Office (BCPO).
6. Upon receiving this information from the Delaware County ICAC, a detective from the BCPO conducted a check with the United States Postal Service to determine who was receiving mail at the Palmyra, NJ address. This check revealed that K.C., DONALD KIVEL, and ETHAN KIVEL receive mail at the address.
7. A check with the NJ Motor Vehicle Commission, revealed that a DONALD KIVEL, date of birth 12/03/1976, listed this address for his driver's license. A subsequent check with the National Crime Information Center (NCIC) revealed DONALD KIVEL was arrested on 05/09/2006 and charged with violation of the Uniform Code of Military Justice (UCMJ) Article 134, Indecent Acts or Liberties with a Child.
8. A subsequent records check, conducted with the United States Navy revealed DONALD KIVEL was tried via General Court Marshal in 2008 in Norfolk, Virginia (VA). DONALD KIVEL was convicted on two counts of Indecent Acts or Liberties with a Child. The female victim was 10 years old at the time of the offense and known to DONALD KIVEL as a family friend. The acts included digital penetration of this female and oral sex performed on the female. DONALD KIVEL was sentenced to two years confinement and discharged from the U.S. Navy with a bad conduct discharge.
9. A check with the BCPO Megan's Law Unit revealed DONALD KIVEL, registered in compliance with Megan's Law on 12/15/2010, at the address in Palmyra, NJ. DONALD KIVEL also listed his girlfriend K.C. as residing at this address.

10. On or about 07/15/2011, members of the Burlington County Prosecutor's Office executed a state search warrant, based upon the probable cause obtained by the Delaware County ICAC, at DONALD KIVEL's residence in Palmyra, NJ. Following the arrival of investigators at his residence, DONALD KIVEL was told of the search warrant and that he was not under arrest. DONALD KIVEL informed investigators that he also uses the name ETHAN. KIVEL also indicated he knew why investigators were there and further advised investigators where to locate his computer, an HP Laptop serial # CNU8441L97, and where he had placed a CD in his residence. KIVEL stated he is the only user of the HP laptop and that it is secured with a password. KIVEL and his girlfriend, K.C., also identified a Dell laptop as belonging to K.C.
11. BCPO investigators upon looking for this CD, where KIVEL had directed them in a closet of a spare bedroom, found several disks. Three images found on one of these disks are described below with their corresponding file titles:
 - a. File Title: 9yo Jenny nude with legs spread wide apart showing pussy - underage lolita r@ygold pthc ptsc ddogprn pedo.jpg

Description: This image appears to depict a prepubescent Caucasian female, approximately 9-10 years old, with light colored hair. The girl appears naked with the exception of black thigh high stockings and a brown leather collar around her neck. The girl is lying on her back on what appears to be a bed with a quilt for a bed spread. The girl's hands are above her head and her wrists are bound with yellow rope. Each leg of the girl is also bound with yellow rope, specifically the lower part of each leg is bound to the upper portion of the same leg, thus spreading her legs and exposing her genitalia to the viewer. The image is taken from the foot of the bed from the perspective of someone looking down upon the girl.
 - b. File Title: 10yo slave-020.jpg

Description: This image appears to depict a naked Caucasian female with blond hair. The girl is lying on her back on a white table or counter top. The girl's wrists are bound to the sides of the table with white rope. There is also a length of rope affixed to the table and running through the girl's mouth creating a gag. It appears there is significant tension on this rope, restraining the girl's head to the table and forming indentations at the corners of her mouth. At least one of the girl's legs also appears to be bound to the table. The image is taken from the foot of the table, with the girl's genitalia being the focus of the image.

c. File Title: bleux.coco.fr-6125.jpg

Description: This image appears to depict a prepubescent Caucasian female with brown hair, who appears to be 6-8 years old. The girl is lying on her back on a grey bed or couch, with her elbows underneath her propping up her head and back. She is using her hands to lift up a white shirt with pink edging. She is naked from the waist down. An adult Caucasian male, also naked from the waist down appears to be attempting to vaginally penetrate the girl with his penis. The man's left hand is on his penis as he tries to penetrate the child. The man is wearing a silver wrist watch on his left arm and is wearing a light blue long sleeved shirt with stripes.

12. BCPO investigators were able to preview the Dell laptop belonging to K.C. No child pornography was found and no P2P programs were installed on this computer. During an interview conducted by Detectives, K.C. stated KIVEL would use the HP computer and that he had used a P2P program to download music and pictures of naked people. When asked if the naked pictures were of adults or children, KIVEL told her the images were of both.
13. A subsequent computer forensic exam, conducted by the BCPO, of the HP laptop belonging to KIVEL revealed the presence of a P2P file sharing program, approximately 60 child pornography video files, and over 500 image files depicting child pornography.